DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5
AMEND ARTICLE 7.5, SECTION 1239

COMMERCIAL VEHICLE SAFETY ALLIANCE
NORTH AMERICAN STANDARD OUT-OF-SERVICE CRITERIA
(CHP-R-09-13)

PROBLEM

Current regulations adopt by reference major portions of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2008, Edition. This criteria outlines conditions by which a commercial vehicle may be placed out-of-service as a result of an inspection by an authorized representative of the California Highway Patrol (CHP). California Highway Patrol personnel utilize this criteria for determining whether or not a vehicle and/or driver is in such an unsafe condition that they are likely to constitute a hazard on a highway and therefore, should be placed out-of-service. The Commercial Vehicle Safety Alliance reviews and updates this criteria annually, and in order to remain consistent, the CHP must update its regulations to reflect the most current out-of-service criteria available.

PURPOSE OF REGULATIONS

The CHP proposes to update the incorporation by reference of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2008, Edition, to the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2010, Edition, in Title 13, California Code of Regulations (13 CCR). The intent of this criteria is to maintain specific guidelines for determining whether or not a vehicle and/or driver is in such an unsafe condition that they are likely to constitute a hazard on the highway. This criteria provides consistency for California with its neighboring states, Canada and Mexico, and maintains a regulatory basis for enforcement efforts as they relate to commercial vehicle out-of-service criteria. Most criteria listed as out-of-service are also violations of current California Vehicle Code (CVC) statutes or 13 CCR regulations already in effect. Updating regulations to reflect the most current edition will continue to provide the regulatory authority to place the driver and/or vehicle out-of-service in addition to issuing a citation.

Section 34501(a)(1) CVC authorizes the CHP to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in Section 34500 CVC. In addition, Section 2402 CVC provides the Commissioner with the authority to "make and enforce such rules and regulations as may be necessary to carry out the duties of the Department," and Section 2410 CVC provides the authority for the CHP to place vehicles out-of-service (Attorney General's Opinion NS 2520) in order to "ensure safety."

SECTION BY SECTION OVERVIEW

§1239(a). Applicability.

The CHP proposes to remove reference to Sections 260, 322, and 15210 CVC. Section 34501 CVC requires the Department to regulate the safe operation of vehicles listed in Section 34500. Amendments to Section 34500 (c) and (k) CVC have incorporated Sections 322 and 15210 CVC. Therefore, the proposal to remove Sections 322 and 15210 from 1239(a) CVC is simply an effort to remove unnecessary redundancy. Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria was never intended to be applied to all vehicles described in Section 260 CVC as this section includes vehicles which are not regulated by the CHP. The proposed removal of Section 260 CVC will enhance the clarity of the applicability of the Out-of-Service Criteria.

§1239(b). Incorporation by Reference.

The CHP proposes that the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2010, Edition, be incorporated by reference into 13 CCR. The Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria is a document that is annually reviewed and updated by the Commercial Vehicle Safety Alliance, and encompasses a vast cross section of industry and public safety concerns.

Changes to the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria (April 1, 2010, Edition):

Driver Out-of-Service Criteria Changes

***3. CDL.**

*b. Learner's Permit.

*(1) Is not accompanied by the holder of a valid CDL. (383.23(c)(1)) **Declare driver out-of-service.**

*(2) Does not hold a valid automobile drivers license or have a valid operator's status allowed by licensing jurisdiction. (383.23(c)(2)) **Declare driver out-of-service.**

*(3) Operating a commercial motor vehicle transporting hazardous materials as defined in 383.5. (383.23(c)(3)) **Declare driver out-of-service.**

***4. DRIVER MEDICAL/PHYSICAL REQUIREMENTS.**

***5. SICKNESS.**

***6. FATIGUE.**

*a. When so fatigued that the driver of a property-carrying vehicle should not continue the trip. (392.3) **Declare driver out-of-service for ten (10) consecutive hours.**

*b. When so fatigued that the driver of a passenger-carrying vehicle should not continue the trip. (392.3) **Declare driver out-of-service for eight (8) consecutive hours.**

***7. COMMUNICATION.**

***8. DRIVER DISQUALIFICATION.**

***9. DRUGS AND OTHER SUBSTANCES; AS IDENTIFIED UNDER SECTION 392.4(a).**

***10. INTOXICATING BEVERAGES.**

***11. DRIVER'S RECORD OF DUTY STATUS - U.S.**

Footnotes for driver's record of duty status - U.S.

*10. A driver who utilizes an electronic device other than those described in 395.15 shall not be declared out-of-service if the driver has the ability to print and sign previously completed record of duty status that comply with 395.8 upon demand.

***12. DRIVER'S RECORD OF DUTY STATUS - Canada.**

***13. DRIVER'S RECORD OF DUTY STATUS - Mexico.**

Vehicle Out-of-Service Criteria Changes

*1. BRAKE SYSTEMS

*a. Defective Brakes

The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination. A defective brake includes any brake that meets one of the following conditions. (396.3(a)(1))

NOTE: Steering axle brakes under "Front Steering Axle(s) Brakes", are to be included in the 20 percent criterion.

Defective Brake Chart (below) may be used to assist in determining when a vehicle/combination is to be placed out-of-service.

Total Number of Brakes Required to be on a Vehicle Combination	Total Number of Defective Brakes Necessary to Place the Vehicle or Combination Out-of-Service
4	1
6	2
8	2
10	2
12	3
14	3
16	4
18	4
20	4
22	5
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** **Vehicle Combination with More Than 22 Brakes - Total Number of Defective Brakes Necessary to Declare the Vehicle Combination Out-of-Service.**

Determine the number of defective brakes required by using 20 percent of the total number of brakes on the vehicle or combination (e.g. 24 x 0.2 = 4.8 brakes). Round all fractions up to the next whole number (e.g. 4.8 brakes = 5 required defective brakes).

*(2) Drum (Cam-Type and Wedge) Air Brakes

*(a) Missing or broken brake shoe, lining, return spring (shoe or chamber), anchor pin, spider, cam roller, camshaft, pushrod, yoke, clevis pin, brake adjuster, parking brake power spring, or air chamber mounting bolt. (393.48(a))

*(3) Air Disc Brakes (Exposed Pushrods and Direct Coupled – Air Chamber to Caliper)

*(a) Missing or broken caliper, brake pad, pad retaining component, pushrod, yoke, clevis pin, brake adjuster, parking brake power spring, chamber return spring, or air chamber mounting bolt. (393.48(a))

*(5) Brake Adjustment Limits. Bring reservoir pressure between 90 – 100 psi (620 – 690 kPa), turn engine off and then fully apply the brakes. All brake measurements shall be made in 1/8 inch (3.2mm) increments.

COMMERCIAL VEHICLE SAFETY ALLIANCE
NORTH AMERICAN STANDARD OUT-OF-SERVICE CRITERIA
REFERENCE CHARTS

Reference: "Defective Brakes" of Part II of the *North American Standard Out-of-Service Criteria*.

Brake Adjustment: Shall not exceed those specifications contained hereunder relating to "Brake Adjustment Limit". (Dimensions are in inches.)

CLAMP TYPE BRAKE CHAMBER DATA

TYPE	OUTSIDE DIAMETER	BRAKE ADJUSTMENT LIMIT
6	4-1/2 (114mm)	1-1/4 (31.75mm)
9	5-1/4 (133mm)	1-3/8 (34.93mm)
12	5-11/16 (145mm)	1-3/8 (34.93mm)
16	6-3/8 (162mm)	1-3/4 (44.45mm)
20	6-25/32 (172mm)	1-3/4 (44.45mm)
24	7-7/32 (184mm)	1-3/4 (44.45mm)
30	8-3/32 (206mm)	2 (50.80mm)
36	9 (229mm)	2-1/4 (57.15mm)

NOTE: *Service chambers with housings that are permanently crimped and sealed together are considered clamp type chambers even though they do not have a separate clamp band.*

NOTE: *A brake found at the adjustment limit is not a defect for the purposes of the 20 % rule.*

'LONG STROKE' CLAMP TYPE BRAKE CHAMBER DATA

TYPE	OUTSIDE DIAMETER	BRAKE ADJUSTMENT LIMIT
12	5-11/16 (145mm)	1-3/4 (44.45mm)
16	6-3/8 (162mm)	2 (50.80mm)
20 *(2-1/2" rated stroke)*	6-25/32 (172mm)	2 (50.80mm)
20 *(3" rated stroke)*	6-25/32 (172mm)	2-1/2 (63.50mm)
24 *(2-1/2" rated stroke)*	7-7/32 (184mm)	2 (50.80mm)
24 *(3" rated stroke)*	7-7/32 (184mm)	2-1/2 (63.50mm)
30	8-3/32 (206mm)	2-1/2 (63.50mm)

***NOTE**: Rated stroke is indicated on a tag and is only used to identify chamber size.*

***NOTE:** Service chambers with housings that are permanently crimped and sealed together are considered clamp type chambers even though they do not have a separate clamp band.*

***NOTE:** A brake found at the adjustment limit is not a defect for the purposes of the 20 % rule.*

BOLT TYPE BRAKE CHAMBER DATA

TYPE	OUTSIDE DIAMETER	BRAKE ADJUSTMENT LIMIT
A	6-15/16 (176mm)	1-3/8 (34.93mm)
B	9-3/16 (234mm)	1-3/4 (44.45mm)
C	8-1/16 (205mm)	1-3/4 (44.45mm)
D	5-1/4 (133mm)	1-1/4 (31.75mm)
E	6-3/16 (157mm)	1-3/8 (34.93mm)
F	11 (279mm)	2-1/4 (57.15mm)
G	9-7/8 (251mm)	2 (50.80mm)

NOTE: *A brake found at the adjustment limit is not a defect for the purposes of the 20 % rule.*

ROTOCHAMBER DATA

TYPE	OUTSIDE DIAMETER	BRAKE ADJUSTMENT LIMIT
9	4-9/32 (109mm)	1-1/2 (38.10mm)
12	4-13/16 (122mm)	1-1/2 (38.10mm)
16	5-13/32 (138mm)	2 (50.80mm)
20	5-15/16 (151mm)	2 (50.80mm)
24	6-13/32 (163mm)	2 (50.80mm)
30	7-1/16 (180mm)	2-1/4 (57.15mm)
36	7-5/8 (194mm)	2-3/4 (69.85mm)
50	8-7/8 (226mm)	3 (76.20mm)

***NOTE:** A brake found at the adjustment limit is not a defect for the purposes of the 20 % rule.*

DD-3 BRAKE CHAMBER DATA

TYPE	OUTSIDE DIAMETER	BRAKE ADJUSTMENT LIMIT
30	8-1/8 (206mm)	2-1/4 (57.15mm)

NOTE: *This chamber has three air lines and is found on motorcoaches.*

NOTE: *A brake found at the adjustment limit is not a defect for the purposes of the 20 % rule.*

WEDGE BRAKE DATA

The combined movement of both brake shoe lining scribe marks shall not exceed 1/8 inch (3.20mm).

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*(b) A brake found at 1/8 inch (3.2mm) beyond the brake adjustment limit shall be considered .5 (1/2) a defective brake for determining the number of defective brakes per the 20 percent defective brake criterion. (Example: Type 30 clamp type brake chamber pushrods measure – Two (2) at 2-1/8 inches (54mm) equal 1 defective brake). (393.47(e))

NOTE: When the vehicle, or combination of vehicles, is placed out-of-service for 20 percent brake violations, all brakes found beyond the brake adjustment limit must be repaired.

NOTE: When calculating/determining the number of defective brakes, round all fractions down to the next whole number (e.g. 4.5 brake violations = 4 defective brakes).

*b. Front Steering Axle(s) Brakes

In addition to being included in the 20 percent criterion, the following criteria place a vehicle in an out-of-service condition:

*(2) Drum (Cam-Type and Wedge) Air Brakes

*(a) Mismatched air chamber sizes. (393.47(b))

NOTE: Mismatched air chamber size excludes long stroke air chamber versus regular stroke air chamber and excludes differences in design type such as type 20 clamp versus type 20 rotochamber. A bolt chamber with any other type is a mismatch.

*d. Trailer Breakaway and Emergency Braking

*(1) Missing or inoperable breakaway braking system on trailer or converter dolly. (393.43(d))

*(2) On any trailer equipped with spring brakes; more than 25 percent of the spring brakes are inoperative. (393.43(d))

*i. Air Pressure Gauge

Inoperative or defective primary or secondary pressure gauge. (393.51(c))

*j. Low Pressure Warning Device

Low pressure warning device missing, inoperative, or does not operate if either the primary or secondary reservoir is 55 psi (379 kPa) and below, or 1/2 of the governor cut-out pressure, whichever is less. (393.51(c))

NOTE: If either an audible or visual warning device is working as required, vehicle should not be placed out-of-service.

*k. Air Loss Rate

If an air leak is discovered and either the primary or secondary reservoir pressure is not maintained when: (396.3(a)(1))

(1) Governor is cut-in;
(2) Reservoir pressure is between 80 – 90 psi (551 – 620 kPa);
(3) Engine is at idle; and,
(4) Service brakes are fully applied.

*l. Tractor-Protection System

Inoperable or missing tractor-protection system components including a tractor-protection valve and/or trailer supply valve. (393.43(b))

NOTE: An inoperative tractor-protection system is defined as one of the following conditions:

1. The trailer supply valve fails to close before pressure drops below 20 psi (138 kPa).

2. When air escapes from the service glad-hand upon brake application after the tractor protection valve has closed.

*m. Air Reservoir

Air reservoir security; separated from its original attachment points. (396.3(a)(1))

*n. Air Compressor

(Normally to be inspected when readily visible or when conditions indicate compressor problems.)

(1) Loose compressor mounting bolts. (396.3(a)(1))

(2) Cracked, broken, or loose pulley. (396.3(a)(1))

(3) Cracked or broken mounting brackets, braces, or adapters. (396.3(a)(1))

*o. Hydraulic Brakes

(Including: Power Assist over Hydraulic and Engine Driven Hydraulic Booster)

(1) No pedal reserve with engine running. (393.40(b))

(2) Master cylinder less than 1/4 full. (396.3(a)(1))

NOTE: Normally to be inspected when readily visible or problems are apparent.

(3) Power assist unit fails to operate. (396.3(a)(1))

(4) Seeping or swelling brake hose(s) under application of pressure. (393.45(a))

(5) Hydraulic hose(s) abraded (chafed) through outer cover-to-fabric layer. (393.45(b)(2))

(6) Fluid lines or connections restricted, crimped, cracked, or broken. (393.45(a))

(7) Any visually observed leaking hydraulic fluid in the brake system upon full application. (393.45(a))

(8) Brake failure light/low fluid warning light on and/or inoperative. (393.51(b))

*p. Vacuum System

(1) Insufficient vacuum reserve to permit one full brake application after engine is shut off. (393.50(b))

(2) Vacuum hose(s) or line(s) restricted, abraded (chafed) through outer cover-to-cord ply, crimped, cracked, broken, or has collapse of vacuum hose(s) when vacuum is applied. (393.45(b)(2))

*q. Performance-Based Brake Test (PBBT)

Failing to develop a total brake force as a percentage of gross vehicle or combination weight of 43.5 or more on an approved PBBT. (393.52(a))

NOTE: The out-of-service notice will be satisfactorily completed: 1) If an approved PBBT is available, the vehicle shall be retested on an approved PBBT and achieve a total brake force as a percentage of gross vehicle or combination weight of 43.5 or more; or 2) If an approved PBBT

is unavailable, each of the brake fault areas identified on the inspection report shall be inspected and repaired.

NOTE: In the United States, an approved PBBT must meet the FMCSA functional specifications 65 FR 48799, August 9, 2000.

***2. COUPLING DEVICES**

***NOTE:** The following criterion only applies when the device is in use.

*a. Fifth Wheels: (Lower Coupler Assembly)

(1) Mounting to frame

(a) More than 20 percent of fasteners on either side missing or ineffective. (393.70(b)(1)(i))

(b) Any movement between mounting components. (393.70(b)(1)(i))

(c) Any mounting angle iron cracked or broken. (393.70)b)(1)(i))

*(3) Sliders

(a) More than 25 percent of latching fasteners on either side are ineffective. (393.70(b)(1)(i)

***5. FUEL SYSTEMS**

*a. Liquid Fuels

(1) A fuel system with a dripping leak at any point (including refrigeration or heater fuel systems). (396.3(a)(1))

(2) A fuel tank not securely attached to the vehicle. (393.65(c))

(3) Passenger Carrying Vehicle: Missing fuel cap. (393.67(c)(7)(v))

***6. LIGHTING DEVICES (HEADLAMPS, TAIL LAMPS, STOP LAMPS, TURN SIGNALS AND LAMPS/FLAGS ON PROJECTING LOADS**

*b. At Anytime – Day or Night

*(2) Does not have an operative turn signal visible on each side of the rear of a single unit vehicle or the rear of the rearmost vehicle of a combination of vehicles. (Inoperative – 393.9(a); Obscured – 393.9(b); Missing – 393.11(a)(1); or, Driveaway – 393.17(b)(2)

EXCEPTION: A truck tractor operated as a single unit is not in an out-of-service condition for an inoperative rear turn signal when the turn signals located on the front are visible from the rear.

7. SECUREMENT OF CARGO

*b. Articles of cargo that are likely to roll are not restrained by chocks, wedges, a cradle or other equivalent means to prevent rolling. (393.106(c)(1))

*c. Articles or cargo placed beside each other and secured by transverse tiedowns are not in direct contact with each other and are not prevented from shifting towards each other while in transit. (393.106(c)(2))

*d. When the aggregate working load limit of the securement devices being used is less than ½ the weight of the cargo being secured. (393.106(d))

NOTE: Equivalent means of securement (e.g. vehicle structures, dunnage, dunnage bags, shoring bars, etc.) may be used to comply; not all cargo must be "tied down" with chains, webbing, wire rope, cordage, etc.

*e. Articles of cargo not blocked or positioned to prevent movement in the forward direction by a headerboard, bulkhead, other cargo that is positioned to prevent movement, or other appropriate blocking devices, is not secured by at least:

(1) One tiedown for articles 5 feet (1.52 m) or less in length, and 1,100 pounds (500kg) in weight. (393.110(b)(1))

(2) Two tiedowns if the article is:

(a) 5 feet (1.52m) or less in length and more than 1,100 pounds (500kg) in weight, or, (393.110(b)(2)(i))

(b) Longer than 5 feet (1.52m) but less than or equal to 10 feet (3.04m) in length, irrespective of the weight. (393.110(b)(2)(ii))

(3) Two tiedowns if the article is longer than 10 feet (3.04m) of article length and one additional tiedown for every 10 feet (3.04m) of article length, or fraction thereof, beyond the first 10 feet (3.04m) of length. (393.110(c))

*f. Article(s) or cargo that is blocked, braced or immobilized to prevent movement in the forward direction by a headerboard, bulkhead, other articles which are adequately secured or by an appropriate blocking or immobilization method, is not secured by at least one tiedown for every 10 feet (3.04m) of article length, or fraction thereof. (393.110(c))

*g. <u>Logs</u>

Not secured per the commodity specific securement requirements. (393.116)

*h. <u>Dressed Lumber or Similar Building Products</u>

Not secured per the commodity specific securement requirements. (393.118)

*i. <u>Metal Coils</u>

Not secured per the commodity specific securement requirements. (393.120)

*j. Paper Rolls

Not secured per the commodity specific securement requirements. (393.122)

*k. Concrete Pipe

Not secured per the commodity specific securement requirements. (393.124)

*l. Intermodal Containers

Not secured per the commodity specific securement requirements. (393.126)

*m. Automobiles, Light Trucks and Vans

Not secured per the commodity specific securement requirements. (393.128)

*n. Heavy Vehicles, Equipment and Machinery

Not secured per the commodity specific securement requirements. (393.130)

*o. Flattened or Crushed Vehicles

Not secured per the commodity specific securement requirements. (393.132)

*p. Roll-on/Roll-off or Hook Lift Containers

Not secured per the commodity specific securement requirements. (393.134)

*q. Large Boulders

Not secured per the commodity specific securement requirements. (393.136)

***8. STEERING MECHANISMS**

*d. Steering Gear Box (Including Rack and Pinion)

(1) Any mounting bolt(s) loose or missing. (393.209(d))

(2) Any crack(s) in gear box or mounting brackets. (393.209(d))

(3) Any obvious welded repair(s). (396.3(a)(1))

(4) Any looseness of the yoke-coupling to the steering gear input shaft. (393.209(d))

***9. SUSPENSIONS**

*b. Spring Assembly

(8) Deflated air suspension (one or more deflated air spring/bag). (393.207(f))

***10. TIRES**

*b. All Tires Other Than Those Found on the Front Steering Axle(s) of a Powered Unit

*(6) Bias Ply Tire: When more than one ply is exposed in the sidewall and the area exceeds 2 square inches (12.9 sq cm). (393.75(a)(1))

*(7) Radial Ply Tire: When more than one ply is exposed in the sidewall and the area exceeds 2 square inches (12.9 sq cm). (393.75(a)(1))

The following conditions apply to all tires; however, when these conditions are found on a dual tire set, both tires must meet one or more of the conditions listed in item 10.b.

*****(8) Bias Ply Tire: When more than one ply is exposed in the tread area and the exposed area of the top ply exceeds 2 square inches (12.9 sq cm) or damaged plies are evident in the sidewall up to 2 square inches (12.9 sq cm). (393.75(a)(1))

*(9) Radial Ply Tire: When two or more plies are exposed in the tread area and the exposed area of the top ply exceeds 2 square inches (12.9 sq cm) or damaged cords are evident in the sidewall up to 2 square inches (12.9 sq cm). (393.75(a)(1))

*(10) So worn that less than 1/32 inch (8mm) tread remains when measured in any two adjacent major tread grooves (typically any groove containing a tread wear indicator) at 3 separate locations around the circumference of the tire at least 8 inches apart. (393.75(c))

NOTE: Measurements should not be made on stone ejectors or tread wear indicators.

***12. WHEEL, RIMS AND HUBS**

*i. Hubs

*(3) When any wheel seal is leaking. This must include evidence of wet contamination of the brake friction material and accompanied by evidence that further leaking will occur. (396.5(b))

***NOTE:** Refer to the applicable contaminated friction material criterion in "Brake Systems", when condition is present.

*(4) Lubricant is leaking from the hub and is present on the wheel surface (caused by a loose hub cap or hub cap bolts, or hub cap damage) accompanied by evidence that further leakage will occur. (396.5(b))

*(5) No visible or measurable amount of lubricant showing in hub. (396.5(a))

OUT-OF-SERVICE CRITERIA

***1. SHIPPING PAPERS - GENERAL**

Present when required. An out-of-service condition exists when transporting HM/DG not accompanied by a shipping paper clearly identifying the specific HM/DG being transported. An error in the shipping description or an incomplete shipping description that will not impede emergency response does not constitute an out-of-service condition.

HISTORY/BACKGROUND

In 1980, the Western States Commercial Vehicle Safety Alliance was established when agencies from seven western states and two Canadian provinces met to discuss common needs and ways to create uniformity of inspection standards, procedures and practices with the intent of improving commercial vehicle safety. The Western States Commercial Vehicle Safety Alliance brought together representatives from federal, state and provincial governmental agencies as well

as the private industry to develop common standards and practices. As a result, the organization established the following initial goals:

- Avoid duplication of inspection efforts by the various jurisdictions;
- Improve the safety of equipment being operated on all highways;
- Minimize inspection delays for the operating industry;
- Increase the number of on-highway inspections;
- Bring about an overall improvement in commercial vehicle and hazardous materials transportation safety;
- Improve commercial driver safety performance;
- Improve compliance with the hazardous materials transportation regulations; and
- Bring about improvements in the collection, dissemination and use of operational motor carrier safety data and research findings.

In July 1981, the CHP entered into a memorandum of understanding with the Western States Commercial Vehicle Safety Alliance. The purpose of the memorandum was to maximize the use of commercial motor vehicle driver and cargo inspection resources; to avoid duplication of effort in expanding the number of inspections performed in a region; to advance uniformity of inspection; and to minimize delays incurred by industry as a result of this type of enforcement activity. As a Western States Commercial Vehicle Safety Alliance member, California agreed to implement procedures pursuant to minimum inspection criteria and out-of-service criteria. Shortly thereafter in 1982, the Western States Commercial Vehicle Safety Alliance became the Commercial Vehicle Safety Alliance. In an effort to maintain consistency and uniformity among the member states, the Commercial Vehicle Safety Alliance established the following:

- The Uniform North American Commercial Vehicle Standard Inspection Procedures;
- The adoption of the uniform out-of-service criteria;
- The adoption of the uniform severity rating of out-of-service violations and maximum fine schedules;
- The development of uniform training curriculum for certified Commercial Vehicle Safety Alliance inspectors;
- The development of uniform inspection procedures for vehicles transporting spent nuclear fuel, high-level radioactive waste and Transuranics (commonly known as the "Enhanced Inspection Procedure");

- The adoption of uniform bus inspection procedures; and

- The development of uniform cargo tank inspection procedures.

The out-of-service criteria is developed through the Commercial Vehicle Safety Alliance with participation from federal, state and provincial officials as well as industry representatives, including appropriate manufacturers and other interested parties. Before revisions to the out-of-service criteria are presented for adoption, a need for the change must be established by accompanying documentation, such as:

- Accident experience/statistics;

- Recommendations, including technical analysis;

- A description showing a new technology; or

- A need for redefinition or clarification of existing criteria.

Any modifications to the criteria require ratification by the general membership at the annual Commercial Vehicle Safety Alliance conference held each fall. Approved modifications are published and become effective on April 1st of each year, with the exception of 2004, where the modifications became effective January 1st.

The Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria is not contained in federal safety regulations. It is an administrative procedure which has been developed to aid the law enforcement officer in determining when a defect or violation has deteriorated to a point where it is likely to result in a breakdown or accident, and must be repaired or corrected before the vehicle and driver are allowed to operate on the highways of North America. It is also important to note the Commercial Vehicle Safety Alliance consists of representatives from law enforcement, truck and bus companies, manufacturers, safety product and service providers, and insurance companies.

STUDIES/RELATED FACTS

The following documents lend support or are otherwise related to this proposed rulemaking. Copies of these documents, or relevant portions thereof, can be obtained from the CHP by telephoning the Commercial Vehicle Section at (916) 843-3400, 1-800-735-2929 (TT/TDD), 1-800-735-2922 (Voice), or via Facsimile at (916) 322-3154. The rulemaking file is available for inspection at the CHP, Commercial Vehicle Section, 601 North 7th Street, Sacramento, California. Interested parties are advised to call for an appointment.

- Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria; April 1, 2008, Edition.

- Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria; April 1, 2010, Edition.

- Attorney General Opinion NS 2520, Authority to place vehicles out-of-service.

ALTERNATIVES

The CHP has not identified, nor been made aware of, an alternative that would be more effective than the proposed action.

Alternatives Identified and Rejected:

Alternative 1: *Do nothing and allow outdated reference to remain in 13 CCR*: This alternative was not selected because the continued use of outdated criteria would defeat the purpose of promoting uniformity and consistency with neighboring states.

Alternative 2: *Discontinue use of Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria:* Discontinuing the use of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria as an enforcement tool by CHP officers may result in:

- Increased numbers of unsafe commercial vehicles being operated on California highways;

- Lack of inspection uniformity with neighboring states; and

- Increased equipment-related traffic collisions involving commercial vehicles.

The estimated cost of this alternative could exceed one million dollars. This estimated figure was derived based on additional time accident investigators may spend investigating collisions resulting from increased numbers of unsafe vehicles on California roadways. Additional costs may be incurred because commercial officers may re-inspect vehicles that have already been inspected outside of California because the CHP would not recognize vehicle inspections performed elsewhere.

Alternative 3: *Update 13 CCR to current revision of the Commercial Vehicle Safety Alliance Out-of-Service Criteria*: This is the Alternative selected as it best meets the safety needs of the public and the Department.

Performance vs. Prescriptive Standards

Due to the nature of the equipment (brakes, frames, fuel systems, etc.) and the standards (driver licenses, hours of service, etc.) to which this criteria will be applied, it is necessary to apply

prescriptive standards. Equipment service limits are critical in commercial vehicles and must be closely adhered to in order to ensure the proper functioning of the equipment. Small deviations in critical component dimensions could mean the difference between an item of equipment working properly and an item that fails completely. A critical item of equipment that fails on any vehicle could lead to a collision and possible injury or death. Non-equipment related standards are also prescriptive and critical. In order to properly and safely operate a vehicle, a driver must pass a written knowledge test as well as demonstrate an ability to operate the vehicle.

LOCAL MANDATE

These regulations do not impose any new mandate on local agencies or school districts.

ECONOMIC IMPACT ON BUSINESS

The CHP has not identified any significant adverse impact on businesses. Businesses involved in the transportation of interstate and intrastate commerce via commercial trucking may choose to purchase the current Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria at a cost of approximately $40 annually at *www.cvsa.org*. These businesses will not otherwise experience any greater effect due to the implementation of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria, April 1, 2010, Edition, than is already commonly known and accepted.

FISCAL IMPACT TO THE STATE

The Department has determined these regulation amendments will result in:

- No significant increase in costs for owners or operators of commercial vehicles. This rulemaking action will simply provide a regulatory basis to enforce the out-of-service criteria that is already being used by the CHP and throughout North America;

- No significant compliance cost for persons or businesses directly affected;

- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;
- No impact on the level of employment in the state; and

- No impact on the competitiveness of this state to retain businesses, as state, provincial and national governments throughout North America have already adopted these requirements.